

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.S.No. 104 of 2014

and

O.A.No. 199 of 2014

M.S.Moorthy

..Plaintiff

Vs.

K.Saravanan

...Defendant

Prayer: Complaint filed under Order IV Rule 1 of the Original Side Rules, 1956, r/w Order VII Rule 1 of C.P.C. praying to direct the defendant to pay the sum of Rs.3,91,90,000/- along with interest at 18% per annum on Rs.3,40,00,000/- from the date of complaint to the date of realization and for costs of the suit.

For Plaintiff : Mr.B.Balachander

For Defendant : Defendant set exparte on 12.07.2019

ORDER

This suit is one for recovery of a sum of Rs.3,91,90,000/- with interest at 18% per annum at Rs.3,40,000/- on date of claim till date of realization.

2. According to the plaintiff, the defendants had borrowed a sum of Rs.1,60,00,000/- on 20.07.2012. As a security for the due repayment of the said

sum, the defendant had executed a promisory note acknowledging the liability and agreeing to repay the same with interest at 18%. Again, during September 2012, the defendant sought for further financial assistance from the plaintiff and the plaintiff advanced a further sum of Rs.1,18,00,000/- to the defendant on 24.09.2012. On the same day, the defendant executed an affidavit in a 20 rupee non-judicial stamp paper agreeing to repay the sum of Rs.3,40,00,000/- with interest at 18% within a period of six months. According to the plaintiff, despite demand, the defendant did not come forward to pay the money and hence, the plaintiff is forced to file the above suit.

3. Pending the suit, the matter was referred to Mediation. At the time of Mediation, the defendant has paid a sum of Rs.1,00,00,000/-(Rupees One Crore only) on 14.09.2015 but as the mediation failed, the matter was referred back to the Court. Since the defendant did not file written statement, the defendant was called absent set exparte on 12.07.2019 and the matter was posted for recording exparte evidence before the learned Master. The plaintiff has been examined as P.W.1. He has filed a proof affidavit reiterating the averments contained in the plaint. He has also produced the promisory note as Ex.P1 and the affidavit as Ex.P2. The suit notice with returned covers has been marked as Ex.P3.

4. Considering the evidence on record, I find that the plaintiff has proved the lending and is entitled to a decree in the suit. Hence, the suit is decreed directing the defendant to pay a sum of Rs.3,91,90,000/- (Rupees Three Crores Ninety One Lakhs Ninety Thousand only) with interest at 9% per annum from the date of plaint till date of decree and thereafter, at 6% per annum till date of realization. The sum of Rs.1,00,00,000/- (One Crore only) paid during mediation shall be adjusted towards interest payable as on that date. The plaintiff will be entitled to costs of the suit also.

26.07.2019

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List of Witness on the side of the Plaintiff:-

M.S.Moorthy (P.W.1)

List of Evidences on the side of the Plaintiff :-

1. Ex.P1 - Promisory Note dated 20.07.2012
2. Ex.P2 - Affidavit dated 24.09.2012
3. Ex.P3 – Returned cover which contains counsel notice with acknowledgement dated 18.06.2013.

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R.SUBRAMANIAN, J.

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